

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
Division of State Parks
Honolulu, Hawaii 96813

July 8, 2011

Board of Land and Natural Resources
State of Hawaii
Honolulu, Hawai'i

Kaua'i

Consent to Assign General Lease No. SP-0153 Phyllis Tokita, Assignor, to Phyllis Tokita and Francis P. Mission, Sr., Assignees

APPLICANT:

Phyllis Tokita, Assignor, to Phyllis Tokita and Francis P. Mission, Sr., Assignees.

LEGAL REFERENCE:

Section 171-36(a)(5), Hawaii Revised Statutes, as amended.

LOCATION:

Lot 72, Waimea (Kona), Kaua'i, Tax Map Key: (4)1-4-002:069, as shown on the attached legal description and survey map labeled Exhibit C.

AREA:

1.08 acres, more or less.

TRUST LAND STATUS:

Section 5(b) lands of the Hawaii Admission Act

DHHL 30% entitlement lands pursuant to the Hawaii State Constitution: YES _ NO X

CHARACTER OF USE:

Recreation - residence.

ITEM E-2

TERM OF LEASE:

20 years, commencing January 1, 2009, and expiring on December 31, 2029. There is one rental reopening scheduled after ten years.

ANNUAL RENTAL:

\$5,000.00.

CONSIDERATION:

\$1.00 and love.

RECOMMENDED PREMIUM:

\$0.00.

DCCA VERIFICATION:

N/A because all persons involved are individuals and not required to register with DCCA.

APPLICANT REQUIREMENTS:

Applicant/assignee shall prepare and submit fully executed assignment of lease.

REMARKS:

Ms. Tokita held the previous lease covering the property. Mr. Mission is the DLNR DOCARE Conservation Resources Enforcement District Manager for Kaua'i.

Act 223 (2008) and board action directed staff to negotiate new leases with existing permit holders so the new lease was issued to Ms. Tokita who now wishes to assign to herself and Mr. Mission.

Staff recommends that a premium of \$0.00 be charged to the assignor as there was no consideration.

Lessee is in compliance with all lease terms and conditions. There have been no prior defaults, except that on September 4, 2009, a Notice of Default was sent to Ms. Tokita regarding required fire insurance coverage for the premises. Fire coverage has since been obtained.

Assignee has not had a lease, permit, easement or other disposition of State lands terminated within the last five years due to non-compliance with such terms and conditions.

Rent re-opening is not scheduled until after the first ten years of the lease. There are no outstanding rental reopening issues.

No comments have been received from any agency or the community.

The request to assign the lease is attached as Exhibit A.

RECOMMENDATION:

That the Board consent to the Assignment of Lease No. SP-0153, attached as Exhibit B, from Phyllis Tokita, Assignor, to Phyllis Tokita and Francis P. Mission, Sr., Assignees, subject to the following:

1. The standard terms and conditions of the most current consent to assignment form, as may be amended from time to time;
2. Review and approval by the Department of the Attorney General; and
3. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

Respectfully submitted,



DANIEL S. QUINN
State Parks Administrator

APPROVED FOR SUBMITTAL:



WILLIAM J. AILA, JR., Chairperson

Attachments

Exhibit A - Assignment Request

Mrs. Phyllis Tokita
P.O. Box 1783
Lihue, Kauai, Hi. 96766

RECEIVED
STATE PARKS DIV

Mr. Daniel Quinn
DLNR, State Parks Administrator
P.O. Box 621
Honolulu, Hawaii, 96809

'09 JUN 29 P1:59

Dear Mr. Quinn,

DEPT OF LAND &
NATURAL RESOURCES

I, Phyllis Tokita, the present lessee of Kokee Puu Ka Pele residential lot TMK (4) 1-4-002:069, Lot 72, request that Francis P. Mission Sr. be added as an additional lessee to the above described residential lot.

Since the passing of my husband who was the primary caretaker /overseer. It has been difficult for me to be the sole lessee of said property.

As my full partner, he will act as my representative in all matters regarding the renegotiation of the lease as well as all other matters concerning the Kokee property. Further, he is authorized by me to negotiate and sign all necessary documents and such documents shall be deemed legal and binding by me and the Department of Land and Natural Resources.

As my partner, I feel that he can more fully oversee and care for the property as it should be. Neighbors have experienced some thefts/burglaries and damages recently and he is more than capable of caring for and insuring the integrity of the house and grounds.

As my partner/representative, please send all future correspondence to him at P.O. Box 1044, Hanapepe, Hi. 96716, Ph.# 808-335-9929.

Phyllis Tokita
Phyllis Tokita

6/26/09
Date

STATE OF HAWAII)

COUNTY OF KAUAI)

On this 26th day of June, 2009, before me personally appeared Phyllis Tokita, to me known to be the person described in and who executed the foregoing instrument and acknowledged that he/~~she~~ executed the foregoing instrument and acknowledged that he/~~she~~ executed the same as his/her free act and deed.

NOTARY PUBLIC CERTIFICATION
Fifth Circuit
Wanda E. Fujimoto
Doc. Description Lihue Is
Daniel Quinn, Dept. of DLNR
State Parks Administ
No. of Pages: 1 Date of Doc 6/26/09
Wanda E. Fujimoto 6/26/09
Notary Signature Date

Wanda E. Fujimoto
Notary Public, State of Hawaii
WANDA E. FUJIMOTO

Notary Public, State of Hawaii

Commission Expires 6/26/2012

Exhibit B – Assignment Agreement

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
STATE OFFICE BUILDING

ASSIGNMENT OF LEASE NO. SP-0153

KNOW ALL MEN BY THESE PRESENTS:

That PHYLLIS TOKITA, unmarried, whose address is P.O. Box 1783, Lihue, Hawaii 96766, hereinafter referred to as the "Assignor," for and in consideration of the sum of ONE DOLLAR (\$1.00) AND LOVE, paid by PHYLLIS TOKITA, unmarried, whose address is P.O. Box 1783, Lihue, Hawaii 96766, and FRANCIS P. MISSION, SR., husband of Laura K. Mission, whose address is P.O. Box 1044, Hanapepe, Hawaii 96716, hereinafter referred to as the "Assignees," the receipt of which sum is hereby acknowledged, and for other valuable consideration, has assigned and does hereby assign, transfer, and set over unto the said Assignees, as joint tenants, their assigns, and the survivor of them and his or her heirs, devisees, personal representatives, and assigns, that certain indenture of lease dated January 6, 2009, from the Board of Land and Natural Resources for and on behalf of the Government of the State of Hawaii, as Lessor, and known as General Lease No. SP-0153, all her right, title, and interest under and by virtue of the said Lease in and to the premises therein described, being a portion of the government land known as Lot 72, Waimea (Kona), Kauai, Hawaii, TMK (4) 1-4-002-069, containing an area of 1.08 acres, more or less, situate at Waimea (Kona), Puu Ka Pele Park Lots, being a portion of Waimea Canyon Park, in said Lease more particularly described.

TO HAVE AND TO HOLD, the same unto the said Assignees, as joint tenants, their assigns, and the survivor of them and his or her heirs, devisees, personal representatives, and assigns, from and after the date hereof, for and during the remaining term of said General Lease, and the rights and privileges in and under said Lease, subject always to the rents, covenants, and

provisions therein contained and on the part of the Assignees to be kept, observed, and performed, and to the consent of the Board of Land and Natural Resources being hereto attached.

AND the said Assignees aforesaid, for and in consideration of the execution of this instrument of assignment and transfer of said General Lease, and do hereby undertake and agree with the said Assignor, and the said State of Hawaii, that said Assignees will pay the rent reserved in said lease and keep, observe, and perform all of the terms, covenants, and conditions therein to be kept, observed, and performed.

IN WITNESS WHEREOF, the said Assignor and Assignees have caused this instrument to be executed this 25 day of February, 2011.

ASSIGNOR:

Phyllis Tokita
PHYLLIS TOKITA

ASSIGNEES:

Phyllis Tokita
PHYLLIS TOKITA

Francis P. Mission Sr.
FRANCIS P. MISSION, SR.

Exhibit C - Legal Description and Survey**STATE OF HAWAII**

SURVEY DIVISION

DEPT. OF ACCOUNTING AND GENERAL SERVICES

HONOLULU

KAUAI FILE
FOLDER 2

C.S.F. No.

November 27, 1967

(Revised - November, 1967)

PUU KA PELE PARK LOTS

LOT 72

Waimea (Kona), Kauai, Hawaii

Being a portion of Waimea Canyon Park
(Governor's Executive Order 2209)

Beginning at the northeast corner of this lot, the coordinates of said point of beginning referred to Government Survey Triangulation Station "HALE 2" being 3111.30 feet South and 2420.14 feet West, thence running by azimuths measured clockwise from True South:-

1. 330° 08' 155.97 feet along remainder of Waimea Canyon Park (Governor's Executive Order 2209);
2. 83° 09' 224.47 feet along Lot 7 of Puu Ka Pele Park Lots;
3. 65° 33' 97.42 feet along remainder of Waimea Canyon Park (Governor's Executive Order 2209);
4. 155° 38' 179.25 feet along Lot 47 of Puu Ka Pele Park Lots and remainder of Waimea Canyon Park (Governor's Executive Order 2209);
5. 262° 46' 310.30 feet along remainder of Waimea Canyon Park (Governor's Executive Order 2209), to the point of beginning and containing an Area of 1.08 Acres.

SURVEY DIVISION
DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES
STATE OF HAWAII

Compiled from survey
by J. Chrystal, Jr.,
A. Ishida and Gov't.
Survey Records.

By:

Akira Ishida
Akira Ishida
Land Surveyor

mm

EXHIBIT "A"

201 35

202 35

355.50

355.50

10777 ac.

3.11

